

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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**REGINALD MCGAUGHY,**

**Plaintiff,**

**vs.**

**9:19-CV-1114  
(TJM/TWD)**

**KEITH MCDONALD, Correctional Officer,  
Bare Hill Correctional Facility,**

**Defendant.**

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**Thomas J. McAvoy,  
Sr. U.S. District Judge**

**DECISION & ORDER**

The Court referred this *pro se* civil action, brought pursuant to 42 U.S.C. § 1983, to Magistrate Judge Thérèse Wiley Dancks for a Report-Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c). Plaintiff alleges that the Defendant, a Correction Officer, used excessive force against him at the Bare Hill Correctional Facility. Defendant has moved for summary judgment, alleging that Plaintiff failed to exhaust his administrative remedies and his claim is therefore barred.

Magistrate Judge Dancks's Report-Recommendation, dkt. # 19, issued on June 26, 2020, recommends that Defendant's motion be granted. Magistrate Judge Dancks finds that Plaintiff filed a grievance regarding the incident in question, but did not avail himself of an appeal. Plaintiff admits that he did not exhaust his administrative remedies. He does not allege that those remedies were unavailable, but instead simply claims that the alleged

excessive force occurred. Under those circumstances, Plaintiff has not satisfied the exhaustion requirement in the Prison Litigation Reform Act, 42 U.S.C. § 1997e(a), and his claim must be dismissed.

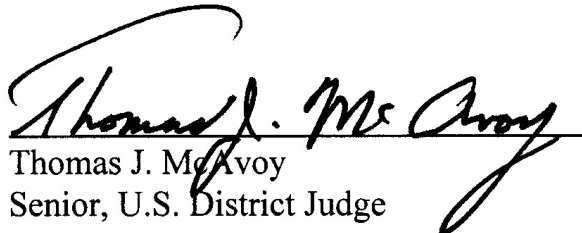
Plaintiff did not object to the Report-Recommendation, and the time for such objections has passed. After examining the record, this Court has determined that the Report-Recommendation is not subject to attack for plain error or manifest injustice and the Court will accept and adopt the Report-Recommendation for the reasons stated therein.

Accordingly,

The Report-Recommendation of Magistrate Judge Dancks, dkt. # 19, is hereby **ACCEPTED** and **ADOPTED**. Defendants' motion for summary judgment, dkt. # 14, is hereby **GRANTED**, and the Complaint is **DISMISSED**. The Clerk of Court is directed to **CLOSE** the case.

**IT IS SO ORDERED.**

**Dated: August 5, 2020**

  
Thomas J. McAvoy  
Senior, U.S. District Judge